

ESTTA Tracking number: **ESTTA746785**

Filing date: **05/17/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Sub-Zero, Inc.		
Entity	Corporation	Citizenship	Wisconsin
Address	4717 Hammersley Road Madison, WI 53711 UNITED STATES		

Attorney information	Tricia L. Schulz Foley & Lardner LLP 150 E. Gilman St. Suite 5000 Madison, WI 53703 UNITED STATES ipdocketing@foley.com, tschulz@foley.com, dfrenkel@foley.com, lmiller@foley.com
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### Applicant Information

Application No	86634431	Publication date	04/19/2016
Opposition Filing Date	05/17/2016	Opposition Period Ends	05/19/2016
Applicant	Global Advantage Trading and Imports, L.L.C. 6725 (R) Chippewa Street St. Louis, MO 63109 UNITED STATES		

### Goods/Services Affected by Opposition


Class 021. First Use: 0 First Use In Commerce: 0  
All goods and services in the class are opposed, namely: Bottles, sold empty; sports bottles sold empty; vacuum bottles; portable coolers and cooler bags, namely, insulated bags for food or beverages

### Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
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### Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	4564796	Application Date	08/14/2012
Registration Date	07/08/2014	Foreign Priority Date	NONE
Word Mark	SUB ZERO		

Design Mark	
Description of Mark	The mark consists of the words "SUB ZERO" inside a rectangle design having curved sides with a snowflake design shown between "SUB" and "ZERO".
Goods/Services	Class 011. First use: First Use: 2012/10/17 First Use In Commerce: 2012/10/17 Refrigerators and freezers; temperaturecontrolled wine storage cabinets Class 037. First use: First Use: 2012/10/17 First Use In Commerce: 2012/10/17 Installation, repair and maintenance ofkitchen appliances

U.S. Registration No.	1543399	Application Date	03/21/1988
Registration Date	06/13/1989	Foreign Priority Date	NONE
Word Mark	SUB-ZERO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1945/00/00 First Use In Commerce: 1945/00/00 REFRIGERATORS AND FREEZERS		

U.S. Registration No.	1625853	Application Date	08/21/1989
Registration Date	12/04/1990	Foreign Priority Date	NONE
Word Mark	SUB-ZERO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1964/00/00 First Use In Commerce: 1964/00/00 REFRIGERATORS AND FREEZERS		

U.S. Registration No.	3507324	Application Date	08/27/2007
Registration Date	09/30/2008	Foreign Priority Date	NONE
Word Mark	SUB-ZERO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 1945/12/31 First Use In Commerce: 1945/12/31 Installation, repair and maintenance of kitchen appliances

Attachments	85702908#TMSN.png( bytes ) 73820430#TMSN.png( bytes ) 77265206#TMSN.png( bytes ) Notice of Opposition.pdf(177576 bytes ) Global Advantage - Exhibits.pdf(1281904 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Dayna M Frenkel/
Name	Dayna M. Frenkel
Date	05/17/2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of App. Serial No.: 86/634431  
Mark: SUB ZERO & design  
Published: April 19, 2016

_____	)	
Wolf Appliance, Inc.	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Global Advantage Trading and Imports, LLC	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Opposer, Sub-Zero, Inc. ("Sub-Zero"), a Wisconsin corporation, having a business address at 4717 Hammersley Road, Madison, Wisconsin, believes that it will be damaged by, and hereby opposes registration of the mark SUB ZERO & snowflake design shown below that is the subject of Application Serial No. 86/634431 (the "Application") published in the *Official Gazette* on April 19, 2016, and requests that registration of the Application be refused.



(the "Opposed Mark").

As grounds in support of this opposition, Opposer asserts as follows:

1. By the Application Ser. No. 86/634431 herein opposed, Applicant seeks to register the Opposed Mark for "Bottles, sold empty; sports bottles sold empty; vacuum bottles; portable coolers and cooler bags, namely, insulated bags for food or beverages"

in Class 21 (the “Applicant’s Goods”). The Application was filed on May 19, 2015, based on an intent-to-use the mark in the U.S.

2. Opposer owns Registration No. 4564796 for the mark SUB ZERO & Snowflake design shown below for “Refrigerators and freezers; temperature controlled wine storage cabinets” in Class 11 and “Installation, repair and maintenance of kitchen appliances” in Class 37. This registration is valid, subsisting, unrevoked, and uncanceled.



(the “SUB ZERO Logo”).

3. Opposer owns Registration No. 1543399 for the word mark SUB-ZERO for “Refrigerators and freezers” in Class 11. This registration is valid, subsisting, unrevoked, uncanceled and incontestable.

4. Opposer owns Registration No. 1625853 for the mark SUB-ZERO & Bowtie Design for “refrigerators and freezers” in Class 11. This registration is valid, subsisting, unrevoked, uncanceled and incontestable.

5. Opposer owns Registration No. 3507324 for the word mark SUB-ZERO for “Installation, repair and maintenance of kitchen appliances” in Class 37. This registration is valid, subsisting, unrevoked, and uncanceled.

6. Opposer, including via its authorized agents, began using the SUB ZERO Logo at least as early as October 17, 2012 in connection with refrigerators and freezers, temperature controlled wine storage cabinets, and the installation, repair and maintenance of kitchen appliances.

7. Opposer, including via its authorized agents, began using the mark SUB-ZERO at least as early as 1945 in connection with refrigerators and freezers.
8. Opposer, including via its authorized agents, began using the mark SUB-ZERO & Bowtie Design at least as early as 1964 in connection with refrigerators and freezers.
9. Opposer, including via its authorized agents, began using the mark SUB-ZERO at least as early as December 31, 1945 in connection with the installation, repair and maintenance of kitchen appliances.
10. Opposer's SUB ZERO Logo, SUB-ZERO word marks and SUB-ZERO & Bowtie Design (collectively referred to herein as "SUB-ZERO Marks") are of significant value to Opposer, including as an identification of source in connection with the sale and offering of Opposer's products and services.
11. Opposer, prior to any filing date or date of first use upon which Applicant can rely, applied for, adopted and used its SUB-ZERO Marks in connection with Opposer's products and services.
12. All of Opposer's SUB-ZERO Marks and the SUB ZERO & snowflake design mark consist of or prominently feature the term "SUB ZERO" and are highly similar in sound, spelling, connotation, appearance and commercial impression.
13. Further, the Opposed Mark not only prominently features the term "SUB ZERO" in similarly styled font to that seen in the SUB ZERO Logo, but it also features a similar snowflake design in the same location, between the "SUB" and "ZERO" word elements, as seen in Opposer's SUB ZERO Logo. The Opposed Mark is identical to the SUB ZERO Logo in sound and spelling, and is at least highly similar if not identical in connotation, appearance and commercial impression.

14. Opposer's products and services and Applicant's Goods are closely related.

Opposer offers and sells refrigerators, freezers, and temperature controlled wine cabinets, as well as the installation, repair, and maintenance of kitchen appliances. Applicant's identified goods are "Bottles, sold empty; sports bottles sold empty; vacuum bottles; portable coolers and cooler bags, namely, insulated bags for food or beverages." All of these products are used to store or keep food or beverages cool or cold. Applicant's Goods overlap with or are closely related and complementary to the freezers, refrigerators and temperature-controlled wine cabinets sold by Opposer under its SUB ZERO Logo and SUB-ZERO Marks, and are typically sold to the same class of purchasers.

15. Applicant's SUB ZERO & Design mark so resembles Opposer's SUB-ZERO Marks, and the SUB ZERO Logo in particular, that when applied to Applicant's Goods, it is likely to, or will, cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act, all to the damage of the Opposer.

16. Through use by Opposer of its SUB-ZERO Marks for Opposer's products and services, purchasers and prospective purchasers of such products and services, and/or related goods and services, associate such marks with a single source, namely, the Opposer.

17. Purchasers and prospective purchasers are likely to be misled into believing, contrary to fact, that Applicant's products sold or provided under the mark opposed herein emanate from, are connected, associated or affiliated with, or are in some way approved or sponsored by, Opposer, all to Opposer's irreparable damage, including through impairment of its goodwill, as symbolized by Opposer's SUB-ZERO Marks.

18. For at least the above reasons, registration of Application Serial No. 86/634431 in Class 21 as set forth herein is opposed on the ground that Applicant's proposed SUB ZERO & snowflake design mark is likely to cause confusion, to cause mistake, or to deceive under Section 2(d) of the Trademark Act, and under state statutory and common law.

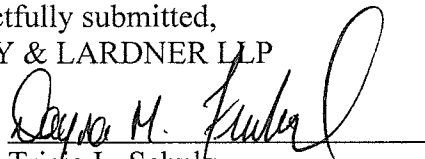
THEREFORE, Opposer requests that this opposition be sustained and the subject Application Serial No. 86/634431 to register the SUB ZERO & snowflake design mark in Class 21 be refused registration.

Payment in the amount of \$300 is tendered herewith via a credit card charge to cover the statutory filing fee. 37 C.F.R. § 2.6(a)(17). If any additional fees should be required, please charge the same to Deposit Account No. 19-0741.

Date: 5/17/16

Respectfully submitted,  
FOLEY & LARDNER LLP

By:

  
Tricia L. Schulz  
Dayna M. Frenkel  
150 E. Gilman St.  
Suite 5000  
Madison, WI 53703  
Counsel for Opposer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of App. Serial No.: 86/634431  
Mark: SUB ZERO & design  
Published: April 19, 2016

_____	)	
Wolf Appliance, Inc.	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Global Advantage Trading and Imports, LLC	)	
Applicant.	)	
_____	)	

**CERTIFICATE OF SERVICE**

I, Linda P. Lucas, hereby certify that a copy of the NOTICE OF  
OPPOSITION was deposited with the United States Postal Service as first class mail, postage  
prepaid, in an envelope addressed to:

Michael J. Hickey  
Lewis Rice LLC  
600 Washington Ave. Ste. 2500  
Saint Louis, Missouri 63101

Dated: 5/17/16

Signed: Linda P. Lucas



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### Word Mark

SUB ZERO

### Goods and Services

IC 011. US 013 021 023 031 034. G & S: Refrigerators and freezers; temperature controlled wine storage cabinets. FIRST USE: 20121017. FIRST USE IN COMMERCE: 20121017

IC 037. US 100 103 106. G & S: Installation, repair and maintenance of kitchen appliances. FIRST USE: 20121017. FIRST USE IN COMMERCE: 20121017

### Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

### Design Search Code

01.15.09 - Snowflakes  
26.11.21 - Rectangles that are completely or partially shaded  
26.11.25 - Rectangles with one or more curved sides

### Serial Number

85702908

### Filing Date

August 14, 2012

### Current Basis

1A

### Original Filing Basis

1B

### Published for Opposition

February 5, 2013

### Registration Number

4564796

### Registration Date

July 8, 2014

### Owner

(REGISTRANT) Sub-Zero, Inc. CORPORATION WISCONSIN 4717 Hammersley Road Madison WISCONSIN 53711

### Attorney of Record

Tricia L. Schulz

### Prior

1543399;1625853;3507324;AND OTHERS

**Registrations****Description of Mark**

Color is not claimed as a feature of the mark. The mark consists of the words "SUB ZERO" inside a rectangle design having curved sides with a snowflake design shown between "SUB" and "ZERO".

**Type of Mark**

TRADEMARK. SERVICE MARK

**Register**

PRINCIPAL-2(F)-IN PART

**Live/Dead Indicator**

LIVE

**Distinctiveness****Limitation**

AS TO "SUB ZERO"

**Statement**

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# Typed Drawing

<b>Word Mark</b>	SUB-ZERO
<b>Goods and Services</b>	IC 011. US 031. G & S: REFRIGERATORS AND FREEZERS. FIRST USE: 19450000. FIRST USE IN COMMERCE: 19450000
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	73718099
<b>Filing Date</b>	March 21, 1988
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	March 21, 1989
<b>Registration Number</b>	<b>1543399</b>
<b>International Registration Number</b>	0855401
<b>Registration Date</b>	June 13, 1989
<b>Owner</b>	(REGISTRANT) SUB-ZERO FREEZER COMPANY, INC. CORPORATION WISCONSIN 4717 Hammersley Road Madison WISCONSIN 53711  (LAST LISTED OWNER) SUB-ZERO, INC. CORPORATION WISCONSIN 4717 HAMMERSLEY ROAD MADISON WISCONSIN 53711
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Mark A. Kassel
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL-2(F)
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090508.
<b>Renewal</b>	1ST RENEWAL 20090508
<b>Live/Dead Indicator</b>	LIVE

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MADISON, WISCONSIN 53711**Correspondent:** MARK A. KASSEL150 E. GILMAN STREET  
MADISON, WI 53703-1481

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<b>Word Mark</b>	SUB-ZERO
<b>Goods and Services</b>	IC 011. US 031. G & S: REFRIGERATORS AND FREEZERS. FIRST USE: 19640000. USED IN ANOTHER FORM FIRST USED IN ANOTHER FORM IN 1945. FIRST USE IN COMMERCE: 19640000
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	26.03.02 - Ovals, plain single line; Plain single line ovals 26.13.21 - Quadrilaterals that are completely or partially shaded
<b>Serial Number</b>	73820430
<b>Filing Date</b>	August 21, 1989
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	September 11, 1990
<b>Registration Number</b>	1625853
<b>Registration Date</b>	December 4, 1990
<b>Owner</b>	(REGISTRANT) SUB-ZERO FREEZER COMPANY, INC. CORPORATION WISCONSIN 4717 HAMMERSLEY ROAD MADISON WISCONSIN 53711  (LAST LISTED OWNER) SUB-ZERO, INC. CORPORATION WISCONSIN 4717 HAMMERSLEY ROAD MADISON WISCONSIN 53711

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Tricia L. Schulz

**Prior Registrations** 1543399

**Type of Mark** TRADEMARK

**Register** PRINCIPAL-2(F)

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100609.

**Renewal** 2ND RENEWAL 20100609

**Live/Dead Indicator** LIVE

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MADISON, WISCONSIN 53711**Correspondent:** MARK A. KASSEL150 E. GILMAN STREET  
MADISON, WI 53703-1481

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# SUB-ZERO

<b>Word Mark</b>	SUB-ZERO
<b>Goods and Services</b>	IC 037. US 100 103 106. G & S: Installation, repair and maintenance of kitchen appliances. FIRST USE: 19451231. FIRST USE IN COMMERCE: 19451231
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks NUM-0-ZERO Marks containing "0" or the word Zero
<b>Serial Number</b>	77265206
<b>Filing Date</b>	August 27, 2007
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	July 15, 2008
<b>Registration Number</b>	<b>3507324</b>
<b>Registration Date</b>	September 30, 2008
<b>Owner</b>	(REGISTRANT) Sub-Zero, Inc. CORPORATION WISCONSIN 4717 Hammersley Road Madison WISCONSIN 53711
<b>Attorney of</b>	Tricia L. Schulz

**Record**

<b>Prior Registrations</b>	1543399;1625853
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL-2(F)
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR).
<b>Live/Dead Indicator</b>	LIVE

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